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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALAN TSU-L YAUNG and YAUCHEN (JASON) WU

Appeal 2009-001806
Application 09/800,400¹
Technology Center 2100

Decided: April 14, 2010

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and
JAY P. LUCAS, *Administrative Patent Judges*.

LUCAS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal from a final rejection of claims 1, 3 to 8, 10 to 15
and 17 to 23 under authority of 35 U.S.C. § 134(a). Claims 2, 9 and 16 are

¹ Application filed March 5, 2001. The real party in interest is International
Business Machines Corporation.

cancelled. (Brief 2, top). The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

We affirm the rejections.

Appellants' invention relates to a system and method for publishing messages through web pages generated by a page building tool. In the words of the Appellants:

A method and system for publishing a message using a page builder tool is disclosed. The page builder tool is for providing a web page and linking the web page to a searchable database. The method and system include providing a message caching agent, a message cache and a message publishing agent. The message caching agent receives the message and provides the message to the message cache. The message publishing agent is coupled to the message cache and the page builder tool. The message publishing agent retrieves the message from the message cache and allows the message to be published on a web browser through the page builder tool in response to a request from the web browser.

(Abstract, Spec. 16).

Claim 1 is exemplary, and is reproduced below:

1. A system for publishing a message using a page builder tool, the page builder tool for providing a web page and linking the web page to a searchable database, the system comprising:

a message caching agent for receiving the message;

a message cache coupled to the message caching agent for storing the message, the message cache receiving the message from the message caching agent, the message cache being a local cache for the page builder tool; and

a message publishing agent coupled to the message cache and the page builder tool, the message publishing agent for retrieving the message from the message cache and allowing the message to be published on a web browser through the page builder tool, wherein the message publishing agent allows the message to be published on the web browser by pushing the message to the web browser through the page builder tool.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

| | | |
|-----------|--------------------|---------------|
| Chandra | US 2002/0138582 A1 | Sep. 26, 2002 |
| Triggs | US 6,546,387 B1 | Apr. 08, 2003 |
| Underwood | US 6,697,825 B1 | Feb. 24, 2004 |
| Lindhorst | US 6,714,219 B2 | Mar. 30, 2004 |

REJECTIONS

The Examiner rejects the claims as follows:

R1: Claims 1, 3, 6 to 8, 10, 13 to 15², 17, and 20 to 21 stand rejected under 35 U.S.C. § 103(a) for being obvious over Triggs in view of Chandra and Lindhorst.

² In the Answer, page 3, the Examiner forgot that claim 16 was cancelled. We will adjust the rejection accordingly.

R2: Claims 4 to 5, 11 to 12, 18 to 19 and 22 to 23 stand rejected under 35 U.S.C. § 103(a) for being obvious over Triggs in view of Chandra in view of Lindhorst and further in view of Underwood.

Appellants contend that the claimed subject matter is not rendered obvious by Triggs, Chandra, Lindhorst, or Underwood for failure of the references to teach key limitations. The Examiner contends that each of the claims is properly rejected.

The rejections will be reviewed in the order argued by Appellants. Claim 1 is considered representative. Arguments that Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103(a). The issue specifically turns on whether the references, especially Triggs, teach a message cache, a message caching agent, and a message publishing agent as claimed.

FINDINGS OF FACT

1. Appellants have invented a system and method for allowing publishers, such as administrators, to publish messages to users of web pages produced by a conventional web page builder tools (Spec. 2, top). Such conventional web page builder tools produce and maintain web pages

viewed by users across a network on browsers and are often connected to databases of information (*Id.*). The invention provides for a message caching agent to receive messages to be published and to store the messages in a message cache prior to publication (Spec. 5, top). A message publishing agent, which may be a software servlet, retrieves the message and passes it to the page builder tool to be displayed on the web pages that it supports (Spec. 5, bottom; Spec. 6, middle).

2. Appellants' Figure 3 is reproduced below:

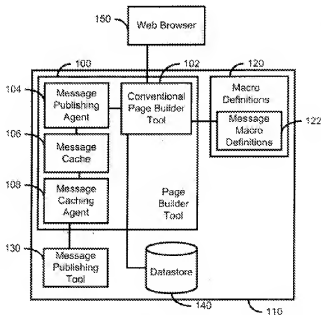


Figure 3

Messages are received by Message Publishing Tool 130 and retrieved by Message Caching Agent 108, and placed in a Message Cache. Message Publishing Agent 104 retrieves the message from the cache, and passes it to the Page Builder Tool 100 to be sent over the net (e.g. Internet) to be viewed by Web Browsers 150.

3. The Triggs reference uses agents, such as e-mail readers 114 or SQL Extractors 116, to collect information from across a system (Col. 4, l. 12 to 58). The information is categorized within a database 40 and made available to users (Col. 6, l. 48). Users have individual information web pages, provided with selected categories of information (Col. 8, l. 62). The selected information is pushed to the user web pages from holding caches through the web servers supporting the web pages (*Id.*).

PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of prima facie obviousness or by rebutting the prima facie case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

"In reviewing the [E]xaminer's decision on appeal, the Board must necessarily weigh all of the evidence and argument." *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

"All of the disclosures in a reference must be evaluated for what they fairly teach one of ordinary skill in the art." The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems

with which they are concerned. They are part of the literature of the art, relevant for all they contain.

In re Lemelson, 397 F.2d 1006, 1009 (CCPA 1968).) (quoting *In re Boe*, 355 F.2d 961, 965 (CCPA 1966)

ANALYSIS

Examiner presents his evidence for a prima facie case on pages 3 to 9 of the Examiner's Answer. In opposition, Appellants present a number of arguments.

*Arguments with respect to the rejection
of claims 1, 3, 6 to 8, 10, 13 to 15, 17, and 20 to 21 1 to 6
under 35 U.S.C. § 103 [R1]*

The Examiner has rejected the noted claims for being obvious over Triggs in view of Chandra and Lindhorst. Appellants note that Triggs teaches a web builder and an e-mail reader which monitors when messages are available and posts them to a server (Brief 11, top). But the Appellants contend that the e-mail reader simply uploads messages to a server, and there is apparently no separate message cache holding a message for publication (Brief 11, top).

We have studied the Triggs reference and find teachings more relevant to the rejection than those observed by the Appellants. Triggs teaches agents collecting information from e-mail (E-mail Readers), from databases (SQL Extractors) and from events occurring throughout the enterprise (Directory Monitors) (Col. 4, ll. 13 to 60). This information is categorized by Catalog Agents 140 into categories that would be useful to the various users of the system (Col. 7, l. 26). A publication system using a

web based page builder tool brings the messages to the individual users (Col. 8, l. 58). The collected messages are moved to a holding server, which the Examiner has read on the claimed message cache (Col. 8, l. 63). Triggs also teaches “individual personal delivery agents 200” that push updates in information (messages) to personal system web pages maintained for each employee (Col. 10, l. 25). The updates are from the selected information categories of each user. These delivery agents are read on the claimed message publishing agents.

We thus find that the elements that the Appellants believed missing are actually taught in Triggs. We find the relevant teachings of Chandra and Lindhorst to be supplemental, and all are supportive of the rejection. We do not find error in this rejection.

*Arguments with respect to the rejection
of claims 4 to 5, 11 to 12, 18 to 19 and 22 to 23
under 35 U.S.C. § 103 [R2]*

The noted claims stand rejected under 35 U.S.C. § 103(a) for being obvious over Triggs in view of Chandra and Lindhorst and further in view of Underwood. Appellants argue that Underwood fails to remedy the defects of Triggs and the other references. (Brief 14, middle). However, by the analysis recited above, such defects have not been found sustainable. We thus further find that the Appellants have not demonstrated error in the rejection [R2] of the noted claims.

CONCLUSIONS OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err in rejecting claims 1, 3 to 8, 10 to 15 and 17 to 23 respectively under rejections [R1] and [R2].

DECISION

The Examiner's rejections [R1] and [R2] respectively of claims 1, 3 to 8, 10 to 15 and 17 to 23 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

peb

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